IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION No. 21661 of 2004

Between:

1 Smt. Punna Bai W/o.Late Sardar Mohan Singh
R/o.Sikhwadi Karimnagar Town, Karimnagar district.
2 S.Devender Singh S/o.Mohan Singh
R/o.Sikhwadi, Karimnagar Town Karimnagar District.

..... PETITIONERS

AND

1 The District Collector Karimnagar, Karimnagar District.
2 The Karimnagar Municipality, rep. by its Commissioner
Karimnagar, Karimnagar District.
3 The Executive Engineer Roads and Buidling Department
Karimnagar Division, Karimnagar District.
4 The Revenue Divisional Officer Karimnagar, Karimnagar District.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of mandamus by directing the respondents herein particularly the 3rd respondent to erect road driver in the middle of the road leads from Kaman to Bus stand Road in Karimnagar Town, in pursuance of the proceedings of the 2nd respondent Dt.20.12.2003 in the interest of justice and equity and consequently direct the 3rd respondent to follow the road plan 4/87.

Counsel for the Petitioner : Mr.Y.RAMA RAO

Counsel for Respondent Nos.1&4: G.P. FOR REVENUE

Counsel for Respondent No.2: Mr.POLISETTY RADHAKRISHNA

S.C. FOR MUNICIPALITIES

Counsel for Respondent No.3: G.P. FOR ROADS & BUILDINGS

The Court made the following :

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue and both of them agreed for disposal of the writ petition at the stage of admission.

The petitioners claim to be owners and possessors of House bearing Nos. 2-4-34 and 2-4-32 situated at Sikhwadi, Karimnagar Town. It is stated that after demolition of the old house, after obtaining permission from the second respondent, they have constructed shops on the above property, and the said shops were allotted house numbers i.e.
H. Nos. 2-4-26 to 34. It is also stated that they are regularly paying the taxes and other incidental charges in respect of the properties. The petitioners state that the respondents in the year 1987 prepared a road plan, and as per the said plan, a road width of 80 feet is to be maintained. The grievance of the petitioners in this writ petition is that the third respondent without consulting the second respondent has erected the road divider contrary to road plan 4/87 haphazardly without maintaining equal distance between two sides of the road margins, which is not only causing much inconvenience to the petitioners, but also leading to traffic congestion and danger to public. Therefore, he filed the present writ petition seeking to direct the third respondent to erect the road divider in the middle of the road.

Earlier, the petitioners filed a Writ Petition No.16884 of 1999 questioning the action of respondents in not erecting the streetlight poles in the middle of the road margin. The said writ petition was dismissed on 5.6.2000. Aggrieved by the same, petitioners filed Writ Appeal No. 867 of 2000 and in the writ appeal, a Division Bench of this Court by its order dated 17.8.2000, held as follows:

"Maintenance of equal distance between two sides of the road while

> erecting the streetlight poles is a technical aspect, which is purely within the purview of the authorities concerned and in the normal course of events, it is presumed that in such matters the public authorities will take decision keeping in view the common good of the larger public. The inconvenience, if any, caused to a few individuals cannot prevail over the larger public interest. This Court in exercise of the power of judicial review under Article 226 of the Constitution cannot go into the correctness or otherwise of such technical aspects unless it is shown that the decision of the authorities is mala fide. Herein there are no allegations attributing mala fides to the appellants. In this view of the matter, we find no ground to interfere with the order of the learned single Judge".

The learned counsel for petitioner however, submits that the second respondent addressed a letter dated 20.12.2003 to the third respondent stating that the road divider erected is not at the center and the same is causing traffic congestion and traffic hazards to the public and requested the third respondent to erect the road divider as per R.D. plan 4/87.

What exact distance has to be maintained on the two sides from the road divider, is a technical aspect, which depends on the width of the road, flow of traffic on the road, etc., and they are matters for the administrative authorities and road safety authorities to decide, and this Court in exercise of its jurisdiction does not go into deciding such questions. Be that as it may, in the present case, inasmuch as there is a report of the second respondent dated 20-12-2003, which observed that the road divider is not erected as per R.D. plan causing traffic congestion and is hazardous to the public and requested to erect the same as per R.D. Plan 4/87, keeping in view the larger public interest and safety,

I deem it appropriate to direct the third respondent to inspect the road and the road divider once again as per the R.D. plan 4/87 and the report of the second respondent, and take appropriate action, expeditiously.

Subject to above direction, the writ petition is accordingly disposed of. No costs.

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N.V.RAMANA, J

Date: 18.1.2005

DA/DSR

To

1 The District Collector Karimnagar, Karimnagar District.
2 The Karimnagar Municipality, rep. by its Commissioner Karimnagar, Karimnagar District.
3 The Executive Engineer Roads and Buidling Department Karimnagar Division, Karimnagar District.
4 The Revenue Divisional Officer Karimnagar, Karimnagar District.

5 Two CCs to the G.P.for Revenue, High Court Buildings, Hyderabad (OUT).

6 Two CD copies.